

DOCKET NO: 204684US6

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF

MUNETOSHI MORIICHI, ET AL.

SERIAL NO: 09/761,961

FILED: JANUARY 17, 2001

FOR: WRITING DEVICE

Refund Ref: 12/08/2008 0039064339

: EXAMINER: HUBER, P.

Credit Card Refund Total: \$1810.00

Am Exp.: XXXXXXXXXXXX1006

: GROUP ART UNIT: 2653

PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONED APPLICATION

UNDER 37 CFR 1.137(A)

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

Adjustment date: 12/08/2008 CKHLOK  
03/08/2005 SDENR082 00000053 150030 09761961  
01 FC:1501 -1400.00 OP  
02 FC:1504 -300.00 OP

SIR:

Adjustment date: 12/08/2008 CKHLOK  
03/08/2005 SDENR082 00000053 150030 09761961  
03 FC:1452 390.00 CR -110.00 OP

Responsive to the Notice of Abandonment dated October 30, 2002, Applicants, through Counsel of Record, respectfully request that the holding of abandonment for the above-identified patent application with withdrawn due to the fact that the Notice of Allowance/Allowability mailed by the United States Patent and Trademark Office on June 24, 2002, was not received by Applicants' Attorney. This withdrawal of abandonment is believed to be unavoidable as the facts are stated below.

Upon receipt of the mail from the Patent Office in this firm, all mail is opened and logged in a daily computer mail log. All mail received from the Patent Office is logged in the mail log by serial number or patent number, along with a description of the mail received. At the time of entry into the computer, the serial numbers are check to ensure that the correct docket number appears on the mail so that the documents are entered in the correct

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03 FC:1452 390.00 CR -110.00 OP

application in the computer and matched with the correct application file. Any due dates resulting from the Patent Office mail are entered into the computer.

After receiving the Notice of Abandonment, our computer system was checked. The computer "Patent Due Dates" section for the subject application did not show a current due date for the Issue, nor did it show receipt of the Notice of Allowance/Allowability, see attached computer printouts. The Patent Office computerized Mail Log was then checked. Mail from the Patent Office is generally received by our firm within two to three days of mailing, however, to ensure a complete check, the daily Mail Log was searched from June 24, 2002 through July 8, 2002 and found to contain no record of having the Notice of Allowance/Allowability for the above-identified patent application.

The application file was then pulled and the full contents of the file were reviewed. The application file did not contain a Notice of Allowance/Allowability.

The course of events is listed below:

1. A Notice to Filing Missing Parts was mailed on February 28, 2001 to Charles P. Sammut, the previous attorney handling this application. The Declaration, executed by the Inventors, was filed on May 25, 2001 in the United States Patent and Trademark Office indicating that the appointed attorneys for Customer Number 022850 (i.e., our firm, "Oblon Spivak, McClelland, Maier & Neustadt, P.C.") were to prosecute the above-identified application on their behalf (Appendix A).

2. On December 16, 2002 (Appendix B) our firm filed a Status Request for First Office Action.

3. On December 27, 2002 (Appendix C) our firm filed a Request for Withdrawal of Abandonment Based on Failure to Receive Notice of Allowance/Allowability.

4. On July 30, 2003 (Appendix D) our firm filed a Second Status Request for First Office Action.

5. On January 9, 2004 (Appendix E) JuaNita Smith of our law firm contacted Examiner Huber by telephone regarding the Request for Withdrawal of Abandonment Based on Failure to Receive Notice of Allowance/Allowability filed on December 27, 2002. Examiner Huber advised that we should refile the Request.

6. On January 23, 2004 the Request for Withdrawal of Abandonment Based on Failure to Receive Notice of Allowance/Allowability was faxed (Appendix F) again to the Commissioner of Patents.

7. On September 29, 2004 and November 16, 2004, a "Letter"(Appendix G) was filed as requested by Examiner Huber, that we explain the course of actions leading to the abandonment of this application.

It is believed that the above discussion and documents enclosed herewith clearly prove that abandonment of this application is deemed unavoidable due to non-receipt of the Notice of Allowance/Allowability, and therefore, the holding of abandonment was issued in error. Accordingly, it is respectfully requested that the holding of abandonment be withdrawn and that the Notice of Allowance/Allowability be reissued in the present application.

The Petition fee as required under §1.17(l) for the present petition of \$110.00 is enclosed. Additionally the Issue Fee payment of \$1700.00 is also enclosed herewith. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 CFR 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate of this sheet is enclosed.

The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 17 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Customer Number

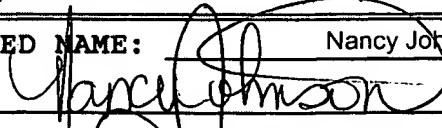

**22850**

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(OSMMN 06/04)

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Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND												
1 Date of Request: <u>12/08/08</u>		2 Serial/Patent # <u>09761961</u>										
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT								
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8 TO BE REFUNDED BY:												
10 REASON:		Treasury Check										
X	Overpayment	X	Credit Deposit A/C #:									
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	No Fee Due (Explanation):											
Notice of Abandonment for failure to pay Issue Fee mailed in error. No Notice of Allowance or Allowability ever												
mailed. Under unique circumstances of this cases, all fees are refundable.												
11 REFUND REQUESTED BY:												
TYPED/PRINTED NAME: <u>Nancy Johnson</u>		TITLE: <u>Sr. Petitions Attorney</u>										
SIGNATURE: <u></u>		PHONE: <u>571-272-3219</u>										
OFFICE: <u>Office of Petitions</u>												
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